

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

UNITED STATES OF AMERICA §
§
Plaintiff §
§
vs. § CASE NO. 7:18-CV-375
§
801.077 ACRES OF LAND, MORE OR §
LESS, SITUATE IN STARR COUNTY §
STATE OF TEXAS; AND CITY OF §
LAREDO, ET AL., §
§
Defendants. §

**DEFENDANT CITY OF LAREDO'S RESPONSE TO PLAINTIFF'S MOTION FOR
ORDER OF IMMEDIATE POSSESSION**

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT:

COMES NOW, Defendant City of Laredo (hereinafter referred to as "Defendant") and files this its Response to Plaintiff United States of America's (hereinafter referred to as "Plaintiff") Motion for Order of Immediate Possession and would respectfully show the Court as follows:

1. On November 26, 2018, Plaintiff United States of America filed this condemnation action for a nonexclusive temporary easement against Defendant.
2. On December 17, 2018, Defendant filed its Answer to the Complaint. (Dkt. No. 9).
3. On February 1, 2019, the Joint Discovery/Case Management Plan under F.R.C.P. 26(f) was filed. (Dkt. No. 14).
4. On February 1, 2019, Plaintiff filed its Opposed Motion for Order of Immediate Possession.

5. The initial pretrial and scheduling conference is set for February 12, 2019 at 9:00 AM.
6. Should the Court be inclined to grant the Plaintiff's Motion, Defendant requests the Court exercise its authority to set the terms under which the Government may take possession of the land for surveying purposes. 40 U.S.C. §3114(d)(1) ("the court may fix the time within which, and the terms on which, the parties in possession shall be required to surrender possession to the petitioner..." (emphasis added)). Defendant respectfully requests this Court require Plaintiff to give Defendant at least seventy-two (72) hours notice before entry upon the property under such authority.
7. As discussed in Defendant's Answer to the Complaint, Defendant reiterates its objection to the amount of just compensation as being inadequate. Additionally, should Plaintiff or its contractors cause any actual damages to the property, Defendant respectfully requests the Court require Plaintiff to compensate Defendant for such actual damages.

WHEREFORE PREMISES CONSIDERED, if the Court is inclined to grant an order for immediate possession, Defendant prays this Court order that reasonable prior notice must be provided to Defendant prior to entry, just compensation and actual damages, and any such further relief as the Court deems proper and just.

Respectfully Submitted,

KRISTINA K. LAUREL HALE
City Attorney for the City of Laredo

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CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2019, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record in this case and a copy of the foregoing document is being sent via email to:

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/s/ Alyssa J. Castillon
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